



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-eighth session

SUMMARY RECORD OF THE 1453rd MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 15 March 2001, at 3 p.m.

Chairman: Mr. SHERIFIS

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Initial report of Georgia (CERD/C/369/Add.1; HRI/CORE/1/Add.90/Rev.1)

1. At the invitation of the Chairman, Ms. Beridze, Mr. Kavadze, Mr. Kavsadze and Mr. Nalbandov (Georgia) took places at the Committee table.
2. Ms. BERIDZE (Georgia) said that the report had been prepared by the Office for the Protection of Human Rights of the National Security Council (NSC), which was responsible for all such reports. She had herself been appointed to the new post of Deputy Secretary of the NSC, the establishment of which attested to the importance Georgia assigned to the human rights dimension of national security.
3. Quoting the relevant provisions of the Georgian Constitution, she said that it was, on the whole, compatible with the provisions of the Convention. Despite the apparent ambiguity in article 38, which stipulated that the exercise of minority rights must not jeopardize Georgia's sovereignty, State order, territorial integrity or political independence, the rights of non-citizens were amply protected by article 47. One exception permitted by the Constitution to the equality of rights and duties of foreign or stateless persons living in Georgia was contained in article 27 and imposed restrictions on their political activity. Citizens and foreigners alike enjoyed all basic human rights, although some special rights were conferred on citizens alone, namely the right to free election, prohibition of expulsion and extradition of nationals, the right of expression concerning access to the information maintained in government bodies, and the protection of labour rights abroad. Abkhazia and South Ossetia being, de facto, outside Georgian jurisdiction, it was difficult for the authorities to assess the level of enjoyment of human rights in those areas, particularly with regard to discrimination.
4. Under the Constitution, international treaties took precedence over domestic law and formed an integral part of Georgia's legislation, in accordance with the Regulations Act and the International Treaties Act, and were similarly applied. Georgia had acceded to all the major international human rights instruments, as stated in paragraph 31 of the report. Having signed the European Convention for the Protection of Human Rights and Fundamental Freedoms, Georgia had recognized the jurisdiction of the European Court of Human Rights. The authorities considered that the country's signing of Protocol No. 12 to the above-mentioned Convention was further proof of its adherence to the principles enshrined in the International Convention. On 16 February 2001 the Georgian Parliament had ratified the European Convention on Extradition, article 3, paragraph 2, of which provided that extradition should not be granted in the face of evidence that the person concerned would be censured, punished or prosecuted for reasons relating to race, religion, nationality or political opinion. Georgia was awaiting ratification by Parliament of the European Framework Convention on the Protection of National Minorities, following which the much debated bill on the protection of national minorities was expected to pass into law by April 2001.

5. She described the functions of the Committee on Civil Integration and the Department for Inter-Ethnic Relations in the Office of the President and of its Presidential Assistant, as set out in paragraphs 47 to 49 of the report. Regarding activities to eliminate gender discrimination (paras. 23 to 26), the National Plan of Action for the Advancement of Women had been extended to 2002, and the pertinent executive bodies were required to submit annual reports on their activities. A key executor of the National Programme to Combat Violence against Women was the Ministry of Internal Affairs (MIA), which was why the focus had initially been on the training of law enforcement officials in gender awareness and issues related to violence against women. As Deputy Secretary of the NSC, she had been involved in the preparation of the training project, in conjunction with a non-governmental organization (NGO), "Former political prisoners for human rights". Information and education seminars had been held at 22 police stations and 18 more were planned for 2001. Special training courses were also organized for local police officers, and gender and violence issues were to be included in the MIA Academy curriculum in 2002. The MIA had hired hundreds of policewomen so as to facilitate contacts with female victims of violence. Of the 4,000 domestic conflicts on record, some 1,200 had been resolved, and further aggravation of the situation avoided. The perpetrators of all rape cases registered from January to November 2000 - which had increased by 40 per cent compared with the same period in 1999 - had been apprehended and prosecuted.

6. In response to General Recommendations No. 11 and No. 19 of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), a National Plan of Action had been adopted. The allocation of US\$ 30,000 from the State budget, despite the country's financial constraints, to the UNDP-sponsored "Women in Development" programme referred to in the report (para. 24) vouched for Georgia's interest in women's issues. Not only did Georgian legislation contain no provisions discriminatory to women, but the Code of Labour Laws stipulated affirmative action in favour of women's working conditions. That action was not without its problems, which had been enumerated in the report (para. 25).

7. Turning to discrimination based on religion, she referred the Committee to paragraphs 159 to 163 of the report. While freedom of religion was protected by the Constitution, the fact that the law on religion had not yet been enacted had recently sparked litigation relating to the activities of the Union of Jehovah's Witnesses and the representation of the Pennsylvania-based Watch Tower Bible and Tract Society. President Shevardnadze had issued an unequivocal condemnation of an incident in which the followers of a defrocked priest had attacked worshippers at a meeting of Jehovah's Witnesses in October 1999, declaring that once religious confrontation among individuals and groups became irreconcilable, it would inevitably assume a political dimension. He had called for the punishment of the perpetrators, and criminal proceedings had been initiated. In February 2001 a joint declaration had been adopted by the Georgian Orthodox Church and 24 Georgian human rights NGOs, condemning religiously motivated fanaticism, violence and intolerance, and violations of human rights protected by the Constitution and international law.

8. She referred the Committee to paragraphs 111 to 115 and 128 to 137 of the initial report, in which the implications of the Legal Status of Aliens Act and the Citizenship Act respectively were set forth. Both those Acts conformed to the provisions of the Convention, including the "or other status" clause, by which birth, while not specifically mentioned, was manifestly covered.

9. Other laws containing non-discriminatory provisions, as explained in the report, were the Ordinary Courts Act, which ensured that justice was administered on the basis of equality (para. 290); the Code of Administrative Procedure, which prohibited interference with the enjoyment of the lawful rights, freedoms and interests of any party to administrative proceedings and stipulated identical treatment for litigants whose circumstances were identical; and the 1997 Code of Civil Procedure which bestowed judicial protection of rights on all persons, with civil cases heard in courts on the basis of equality (para. 67).

10. She drew attention to the provision of article 9 of the Code of Criminal Procedure referred to in paragraph 68 of the report and pointed out that the Civil Code prohibited both preferential and discriminatory treatment in marriage and family relations (art. 1153). She also drew attention to the provisions of the Criminal Code prohibiting racial, religious, national and ethnic discrimination and intolerance (report, paras. 17-18). It should be noted that the provision of the older Criminal Code (art. 75) making it an offence to incite racial hatred had been deleted from the new Criminal Code; in the opinion of the Georgian delegation, it should be reinstated. The Constitutional Court had never considered any claims relating to articles 14, 38 and 47 of the Constitution.

11. She was convinced that the consideration of Georgia's initial report and the Committee's conclusions and recommendations would contribute to the further implementation of the Convention's principles in her Government's policy and practice, and she drew attention to the recent statistical information appended to her statement.

12. Mr. FALL (Country Rapporteur), welcoming the Georgian delegation, hoped that its presence would be the start of regular contacts between Georgia and the Committee. He briefly reviewed the country's recent history, noting that the status of Abkhazia and the Tskhinvali region had yet to be defined, that some 94 different ethnic groups or nationalities lived in Georgia and that several religions were practised, the most important of which, the Georgian Orthodox Autocephalous Church, enjoyed a special status under the Constitution. Since gaining independence Georgia had had to contend with ethnic and political strife in Abkhazia and in South Ossetia, which had resulted in many casualties and the flight of millions of persons.

13. Turning to the initial report (CERD/C/369/Add.1), he noted that Georgia had acceded to the Convention in July 1999 and had also ratified the other main international human rights instruments. The initial report had been produced in keeping with the Committee's guidelines. It contained a wealth of information on measures taken to implement the Convention. Paragraphs 28 and 29 explained that the Convention took precedence over domestic law and could be directly invoked in court. Although the Constitution took account of the provisions of article 2 of the Convention, the report did not contain sufficient information on all measures taken by the State party to ensure the instrument's effective implementation.

14. Addressing the rights of minorities, the report stated (para. 43) that the Constitution contained provisions to ensure the development and protection of minorities and guarantee their full and equal enjoyment of human rights and fundamental freedoms. But the failure to pass the law on national minorities in 1994 gave cause for concern. Could the Georgian delegation explain what had interfered with its passage? The report indicated that the Ajaria Autonomous Republic was a component part of Georgia. He requested information on the ethnic make-up of

the population of that Republic and on the situation of its population. He would also like to know more about the Meskhets (para. 29), members of a minority group displaced from southern Georgia. Had Georgia been able to obtain their repatriation?

15. Turning to implementation of article 3 of the Convention, he noted that no reference was made to condemnation of the crime of apartheid. Article 4 of the Convention was not fully complied with either, because Georgian legislation failed to make racist acts and manifestations an offence and to condemn the dissemination of racist propaganda and racist organizations. He regretted the absence of information on case law on the subject.

16. He observed that Georgian nationality was acquired by birth (para. 128). Was nationality based on jus soli, jus sanguinis or a combination of the two? He was surprised to read that a Georgian who resided abroad permanently and failed to register with the Georgian consulate for two years without good cause would lose his or her nationality (para. 136); that seemed rather excessive.

17. Turning to the question of refugees, he said that the United Nations had on several occasions referred to the Abkhaz authorities' obstruction of the voluntary return of refugees, and the Security Council had made a number of recommendations for facilitating the free movement of refugees and displaced persons. Amnesty International had asked the Abkhaz authorities to take the necessary measures to ensure the safe return of such persons. The periodic report said that the Government did not have full control over certain parts of the country. Could the Georgian delegation provide more information on what was happening in those areas and how Georgia sought to exercise its sovereignty there?

18. The Committee had received reports of violations of freedom of worship, notably involving cases of harassment and violence directed against certain denominations, in particular Jehovah's Witnesses. One political party had even asked the Government to revoke the right to worship of the Jehovah's Witnesses. Could more information be provided on the role of the Orthodox Church? Was it a state religion?

19. He welcomed the establishment of various institutions to monitor respect for human rights. Could the Georgian delegation provide details on how the Committee on Civil Integration (para. 47) promoted the integration of minorities, as well as further details on the work of the Committee for the Protection of Human Rights and Ethnic Relations, the Public Defender (Ombudsman) and the local human rights commissions, and what results they had produced? He encouraged Georgia to pursue the teaching of human rights in educational and training centres.

20. The Committee encouraged Georgia to consider making the declaration on individual communications under article 14 and approving the amendments to article 8, paragraph 6, of the Convention.

21. Mr. VALENCIA RODRIGUEZ said that the Committee was pleased that Georgian legislation specifically prohibited racial discrimination and ensured the rights and freedoms of

foreign residents. It noted with interest that international conventions, which were self-executing, took precedence over domestic law. Could the Georgian delegation confirm that the Convention could be directly invoked in court?

22. Paragraph 43 had referred to special measures to promote the social and economic development of highland regions. What ethnic groups lived there? What was their economic situation? What programmes were being carried out to improve their standard of living? Paragraph 55 referred to the policy of "ethnic cleansing" practised in the Abkhaz region. That situation deserved special consideration, even if the region was de facto outside Georgia's control. Could further information on the situation be provided?

23. He observed that no specific legislation had been adopted in compliance with the obligations under article 4 of the Convention. Only general references were made to the provisions of the Criminal Code. He noted that article 5, paragraph 2, of the Civil Code prohibited the activities of parties that fomented the dissemination of racist ideas and discrimination. Had those provisions in the Civil and Criminal Codes been applied in the context of racial discrimination? Had the acts referred to in paragraphs 61 to 63 been punished? The Committee would like to receive information on any other cases that might have arisen.

24. Implementation of article 5 of the Convention had been comprehensively covered, but he wondered to what extent minority groups, in particular, were affected by the cost of court proceedings (para. 70). Noting that ethnic minority representatives entered Parliament via party lists (para. 89), he recommended increasing minority presence in such lists, especially since minority participation in recent elections had been very high (para. 97). Because a poor command of Georgian could be an obstacle to participation in local government, members of minority groups needed to be given instruction in Georgian and informed about the legislation on language. The Committee would like more details of the Language Act (para. 104). Paragraph 107 referred to the registration of Georgian citizens and resident aliens. He assumed that no ethnic or racial information was gathered that might lead to exclusion or discrimination. Had the Press and Mass Media Act (para. 170) or the Assemblies and Demonstrations Act (para. 179) ever been applied to restrict the dissemination of racist ideas?

25. Did the statement in paragraph 189 that there were no legislative obstacles to the exercise of the right to join a non-political association on racial grounds mean that no political association could be created on that basis? The Committee would appreciate hearing about the results of the poverty reduction programme conducted in conjunction with the World Bank and the International Monetary Fund (para. 250).

26. With regard to implementation of article 6 of the Convention, he sought additional information on paragraphs 297 *et. seq.* It appeared that, once an act of racial discrimination was committed, there were two legal avenues for the victim: civil proceedings and criminal proceedings. Was it necessary first to obtain a decision in criminal proceedings before applying for compensation in civil proceedings? Paragraph 305 referred to the right to seek redress from other institutions. Which institutions were they, what was their competence and what form of redress could they provide?

27. On implementation of article 7 of the Convention, the Committee welcomed the measures and programmes adopted. It was hoped that, in Georgia's campaign to disseminate information on international human rights instruments, particular emphasis would be given to the Convention.

28. Mr. RECHETOV said he wished the Georgian people every success in the reconstruction of its economy. The report stated that in cases of conflict between the Constitution and international conventions, the Constitution took precedence (paras. 28-30). That was unusual: most countries decided either to amend the Constitution as required or not to ratify a convention. As it stood in the report, if a country were to accede to an international human rights treaty and that treaty were in conflict with the Constitution, it would mean that that country would not implement that part of the instrument.

29. He asked whether Georgia had acceded to the conventions of the International Labour Organization and what the Georgian Government's position was on those conventions, which protected the rights of millions of working people.

30. Mr. de GOUTTES commended the Georgian Government's prompt submission of its initial report and was encouraged to see the objectives and spirit of the Convention reflected in the report. He was particularly pleased that Georgia recognized the cultural rights of minorities, that there had been no manifestations of anti-Semitism (para. 22), that religious tolerance was guaranteed, despite a number of incidents, and that there were some 100 NGOs present in the country.

31. He had noted, like Mr. Rechetov, that international treaties took precedence over domestic law but ranked lower than the Constitution; and that treaties were self-executing unless special measures were required for their enforcement. He took it that the Convention fell into the latter category because its provisions were non-self-executing; hence the importance of legislation to give force, in particular, to article 4. The Criminal Code seemed to make ample provision for the punishment of racial discrimination and he noted that racist motivation constituted an aggravating circumstance in many instances. It was unclear, however, whether racial defamation and insults were offences in their own right and whether the dissemination of ideas based on racial superiority or hatred was covered by domestic legislation.

32. He would welcome additional information about the role of the recently established Committee on Civil Integration (para. 47) and the results of its activities to date. Paragraph 61 attributed the fact that the articles of the Criminal Code dealing with racially motivated crimes were rarely applied to the tradition of tolerance in Georgian society and mentioned only one case of prosecution. He hoped that the next report would contain more detailed information about any complaints of racial or ethnic discrimination filed with the courts or other authorities.

33. According to Amnesty International's 2000 report on Georgia, members of the Georgian community living in Abkhazia had complained of arbitrary detention, ill-treatment and even theft by the Abkhaz forces. Some 200,000 persons fleeing from the conflict had allegedly been prevented from leaving Abkhazia. Although the Georgian authorities reportedly exercised no control over the disputed regions of Abkhazia and South Ossetia, he would be grateful for any information the delegation could provide on the current situation.

34. He inquired about training courses in human rights and inter-ethnic understanding for law enforcement personnel, including prison and border guards, and the judiciary. Lastly, he urged Georgia, which had already subscribed to the individual petitions procedure under the European Convention on Human Rights, to make the declaration under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination since the areas covered by the two Conventions were not the same.

35. Mr. THORNBERRY welcomed the statement in article 38 of the Georgian Constitution that equality and non-discrimination were universally recognized principles. Referring to paragraph 11 of the report which stated that interpreters were provided in legal proceedings for persons who were not fluent in the official language of Georgia, he asked whether such persons could present petitions to the central or local authorities in a minority language and, if not, who would bear the cost of translation. Referring to paragraph 89, he asked what consideration the Government had given to ways of improving minority representation in Parliament.

36. The Advertising Act prohibited discriminatory advertisements and article 153 of the Criminal Code covered the offence of hate speech but he wondered whether the legislation included a more general prohibition of racist speech as such.

37. With regard to education for aliens, he wished to know which treaties and agreements were being referred to in paragraph 258. In the case of Georgian nationals whose first language was not Georgian, how did the authorities organize the transition from mother-tongue education to education in the Georgian language? Did the State support the Russian, Azerbaijani and Armenian schools referred to in paragraph 266? Lastly, he took it that the reference to the national cultural heritage in paragraph 272 covered the heritage of all ethnic groups in Georgia.

38. Mr. DIACONU, welcoming Georgia's prompt submission of its initial report, said it was unfortunate that the Convention was not being applied to the whole of Georgian territory because the Government could not be held responsible for its implementation in Abkhazia and South Ossetia and was unable to protect Georgian citizens living there. Paragraph 55 of the report, for example, referred to "ethnic cleansing" in the Abkhaz region. He suggested that the Committee might appeal to the international community for assistance in dealing with the implementation of the Convention in those areas.

39. Georgian legislation contained a number of provisions dealing with equality, non-discrimination and use of a person's mother tongue, but failed to cover all aspects of article 4 of the Convention. Article 142 of the Criminal Code referred rather to article 5 of the Convention. It prohibited infringements of equal rights on grounds of race, skin colour and other characteristics as a consequence of which human rights were "substantially violated". If the violation was not substantial, were such infringements exempt from punishment? Racial, religious, national or ethnic intolerance was an aggravating circumstance in the case of diverse violent crimes but that provision, however commendable, did not fully cover article 4. No punishment was prescribed for the dissemination of ideas based on racial superiority or for incitement to racial discrimination. He trusted that article 75 of the old Criminal Code, which prohibited incitement to national, ethnic and other forms of strife, had been incorporated in the amended Code. According to paragraph 40 of the report, article 5 of the Civil Code prohibited political parties whose purpose was to foment ethnic, local, religious or social strife. Again, that

was a commendable provision but it failed to cover promotion of and incitement to racial discrimination, for example against an individual. A number of new institutions for the defence of human rights were described in paragraphs 47 and 49 of the report. Georgia's next report should contain an assessment of their achievements in terms of the defence of human rights and the prevention of racial discrimination.

40. According to the report, minorities participated in elections and were represented in Parliament and in local bodies. He would welcome information about political parties, for instance the procedures for forming a party and whether any parties were based on a particular ethnic group. He noted that Georgia did not accept dual citizenship. Had the authorities considered the situation of Georgians living abroad who had become citizens of another country but wished to retain their Georgian citizenship? Noting the existence of educational facilities in the languages spoken by different population groups and the measures to ensure equality of Georgian citizens in cultural life, he said that such efforts to build a society based on mutual tolerance and understanding augured well for the future of a young country.

41. Mr. PILLAI complimented Georgia on its comprehensive report and its open and frank review of the existing situation. He would appreciate an assessment of the extent of internal displacement resulting from the troubles in Abkhazia and South Ossetia and its impact on the overall situation of ethnic groups.

42. Ms. JANUARY-BARDILL, thanking the Government of Georgia for a well-structured report, asked whether there were any Roma in Georgia and, if so, what status they enjoyed and to what extent their social and cultural rights were protected.

43. Mr. TANG Chengyuan, commending Georgia on the high quality of its initial report, said that, according to the report, article 8 of the Citizenship Act guaranteed aliens and stateless persons the rights and freedoms provided by the norms of international law and the laws of Georgia. Noting that Georgia was a party to the 1961 Convention relating to the Status of Stateless Persons, he inquired about the citizenship rights of such persons, in particular the status of children born to stateless persons in Georgia.

44. Mr. YUTZIS said that the Committee's mandate covered freedom of thought, conscience and religion when a particular minority might be affected by restrictions on such freedoms. According to paragraph 159 of the report, the Georgian Constitution recognized the special role of the Georgian Orthodox Church while at the same time proclaiming freedom of religion and belief and the separation of Church and State. He asked whether, notwithstanding the constitutional separation, the State granted special financial or other benefits to the Orthodox Church such as subsidies for opening new places of worship or the payment of priests' and bishops' salaries, which might constitute indirect discrimination if other religions were deprived of such advantages.

The meeting rose at 5 p.m.